

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ROBERT BOULE,

Plaintiff,

v.

ERIK EGBERT and JANE DOE EGBERT
and their marital community,

Defendants.

No. 2:17-cv-00106-RSM

DECLARATION OF AGENT EGBERT

NOTED ON MOTION CALENDAR:
July 27, 2018

ERIK EGBERT,

Counterclaimant,

v.

ROBERT BOULE,

Counterdefendant.

I declare under penalty of perjury under the laws of the United States that I am over the age of 18 and otherwise competent to testify, and that the following is true and based on my personal knowledge.

My background

1. I am a Border Patrol Agent with U.S. Customs and Border Protection, a component of the Department of Homeland Security. I was hired in August 2009.

2. I graduated from the Border Patrol Academy in January 2010. The Academy teaches the basic knowledge and skills necessary for safe, proper, and effective service as a Border Patrol Agent. I received training in the law, communication skills, firearms, patrol procedures, report writing, defensive tactics, and other subjects. The legal training I received at the Academy covered a Border Patrol Agent's authority to enter property, search vehicles, and detain, search, and investigate aliens, among other topics. (I realize the term "alien" sounds strange, but I don't mean any disrespect. That's the legal term CBP and federal statutes use to describe any foreign national in the United States.)

3. After finishing the Academy, I was assigned to patrol the southern border near Welton, Arizona. Like other new Border Patrol Agents, I initially worked under the close supervision of experienced agents who had been designated field-training officers or journeymen. These experienced agents provided on-the-job training, closely observed my performance, and gave daily feedback. During this portion of my training, I conducted numerous immigration checks and investigative stops near the border under their supervision.

4. After I completed the field-training program and began working independently as a Border Patrol Agent, I continued receiving ongoing training from CBP. Each quarter, for example, I receive refresher training on a variety of topics, including updates on the law and when and how to use force.

1 5. I have been assigned to CBP's Blaine Station since September 2010. The Blaine
2 Station is responsible for patrolling [REDACTED] of the U.S.-Canada border. We monitor the
3 international border for anyone crossing outside of an official port of entry. We are focused on
4 counterterrorism and are on the lookout for cross-border crime, including human-trafficking
5 and drug-trafficking.

6 **Background on Mr. Boule**

7 6. Robert Boule, the plaintiff in this matter, owns and operates a bed-and-breakfast
8 in Blaine on property that abuts the U.S.-Canada border. He calls the bed-and-breakfast
9 "Smuggler's Inn." He also owns numerous vehicles, including SUVs and a limousine that he
10 uses to transport people to and from Smuggler's Inn.

11 7. Until recently, Mr. Boule was [REDACTED]
12 [REDACTED]. Until discovery in this
13 litigation, I didn't know much detail about [REDACTED]. On the date of the incident,
14 however, I already knew that [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 8. Sometimes [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED]
21 [REDACTED]

1 9. A handful of times over the years, CBP management advised us Border Patrol
2 Agents that [REDACTED]
3 [REDACTED]. The rest of the time, we monitored
4 the area and took enforcement action at Smuggler's Inn just like we would anywhere else along
5 the border.

6 **Background on Smuggler's Inn**

7 10. I am very familiar with Smuggler's Inn. It's a notorious site of illegal border
8 crossing, both north into Canada and south into the United States. Persons cross the border at
9 Smuggler's Inn on a near-daily basis. Prior to March 2014, I'd been to Smuggler's Inn
10 hundreds of times while on patrol, and I had personally apprehended persons who had illegally
11 crossed the border there. On other occasions, I participated in arresting persons Mr. Boule was
12 transporting from Smuggler's Inn.

13 11. Attached as **Exhibit A** is a satellite image from Google Maps that fairly and
14 accurately depicts Smuggler's Inn. Labels have been added to orient the Court. Smuggler's Inn
15 consists of two main buildings: a large house with guest rooms and a "carriage house" with
16 additional guest quarters.

17 12. Smuggler's Inn is an easy place to cross the border. Posing as a "guest" provides
18 cover to be in the area, and there is no fence along the border. On the Canadian side of the
19 border is a public road named 0 ("Zero") Avenue running east-west along the border. It's only
20 a few steps from Mr. Boule's backyard to 0 Avenue in Canada, or vice versa. Many of the
21 people who cross the border are picked up or dropped off by an accomplice driving a car down
22 0 Avenue.

1 13. For years, drug-traffickers have also used Smuggler's Inn to get drugs across
2 the border. Cocaine and methamphetamine are trafficked north into Canada, while ecstasy and
3 an opiate called "doda" are trafficked south into the United States. Large shipments of all four
4 drugs have been seized at Smuggler's Inn or from Mr. Boule's vehicles.

5 **Human-Trafficking**

6 14. Mr. Boule was arrested a couple months ago by Canadian authorities, and I
7 understand he's been charged with multiple counts of human-trafficking. This did not surprise
8 me, because Mr. Boule has long been facilitating and profiting from the steady flow of persons
9 crossing the border at his property.

10 15. Mr. Boule has made it easy for border crossers to identify his property. He flies
11 U.S. and Canadian flags from twin flagpoles in his backyard, and he posted a sign along 0
12 Avenue that reads "Slow: Smuggler's Crossing." Below is a screenshot from Google Maps
13 showing a view of Smuggler's Inn from 0 Avenue in Canada.



1 16. As shown below, Mr. Boule sometimes even had a sign posted along 0 Avenue
2 that read “Smuggler’s Inn” and had an arrow pointing to the main house.



11 17. Mr. Boule routinely keeps his back door unlocked to facilitate entry by persons
12 who have crossed the border. On numerous occasions, Border Patrol Agents have observed
13 persons come south across the border and walk into Smuggler’s Inn through the back door.

14 18. When I first began working at the Blaine Station about eight years ago, I
15 occasionally observed what appeared to be legitimate guests staying at Smuggler’s Inn. These
16 guests arrived in their own cars, came and went, and generally acted like vacationers. Over
17 time, however, the legitimate business dwindled. By around 2013, most “guests” arrived in
18 one of Mr. Boule’s vehicles, checked into the inn, and then illegally crossed the border that
19 same night. Other “guests” were persons who crossed the border into the United States and
20 paid Mr. Boule to drive them to an airport or a bus station further south.

21 19. I’ve been inside Smuggler’s Inn on official business, and it did not look like a
22 place where legitimate guests would choose to stay. It was dirty and run down. For example,
23

below is a photograph of one of the “guest rooms.” This photograph was downloaded from the internet, but I recognize the room. It looked even worse when I saw it.



20. Despite the poor conditions inside Smuggler’s Inn, Mr. Boule charges rates comparable to Semiahmoo, a luxury resort just eight miles away. The only reason he can charge such high rates is because his “guests” want to sneak across the border via his property.

21. Mr. Boule routinely defrauds aliens by charging them for services he never provides. When someone crosses the border onto his property and asks for a ride further south, he charges above-market rates for both lodging and transportation. He charges for lodging, even if the person just wants transportation. [REDACTED]

After these arrests—[REDACTED]—Mr. Boule refuses to refund the amounts he charged for “lodging” and “transportation.” [REDACTED] charging them

1 for services is a well-known method of exploiting these vulnerable persons. I was trained to
2 try to obtain refunds for aliens I arrest. Mr. Boule refuses to issue refunds, however, and claims
3 that [REDACTED].

4 **The Incident**

5 22. On March 20, 2014, I was working my regular day shift as a Border Patrol
6 Agent. I was assigned to patrol an area along the U.S.-Canada border that included Smuggler's
7 Inn. I wore my uniform and drove a marked patrol vehicle (a Chevy Tahoe).

8 23. That morning, I encountered Mr. Boule while I was patrolling the area near
9 Smuggler's Inn. [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 24. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

1 25. [REDACTED]

10 26. [REDACTED]

13 27. [REDACTED]

17 28. For the remainder of the morning, I continued performing my patrol duties,
18 which included monitoring the border near Smuggler's Inn. I intentionally stayed nearby, so I

1 29. In the early afternoon, I saw a black SUV with a personalized license plate that
2 read "SMUGLER" return to the inn. I recognized this vehicle as one belonging to Mr. Boule,
3 and I followed it into the driveway. My intent was to contact Mr. Kaya, check his immigration
4 status, and see what I could learn about whether he was engaged in criminal activity.

5 30. The SUV parked in the horseshoe driveway between the main house and
6 carriage house, in the approximate position indicated by an arrow on Exhibit A. I parked my
7 patrol vehicle at an angle behind it.

8 31. I understand Mr. Boule contends in this litigation that his driveway is within
9 the "curtilage" of his home. But it never appeared to me that he intended this to be a private
10 area. There's no gate, and the area is in plain view of the public road. You walk through the
11 driveway to enter the main building, which Mr. Boule holds out as a place of public
12 accommodation. It's also used by any guests moving between the main house and the carriage
13 house, as well as long-term tenants residing in the carriage house. In other words, it was both
14 open to the public and a common area shared by tenants and guests staying the inn. In my
15 mind, this area was like the parking lot of a motel. More importantly, other Border Patrol
16 Agents and I had entered that driveway area on a near-daily basis for many years, and Mr.
17 Boule hadn't ever suggested we weren't welcome there.

18 32. The driver got out of the car, and I recognized him as Jason, one of Mr. Boule's
19 employees. I now know his full name is Jason Surowiecki. I got out of my patrol vehicle and,
20 because the SUV's tinted windows made it hard to see inside, I asked Mr. Surowiecki if he had
21 any passengers in the backseat. He said he did. I then asked Mr. Surowiecki if I could speak to
22 the passenger, and he said yes.

1 33. As I was walking toward the passenger door on the right side of the SUV, Mr.
2 Boule came over in a hurry. He was very animated and began yelling at me. He told me not to
3 talk to the passenger and accused me of trespassing.

4 34. Mr. Boule stepped between me and car door, preventing me from opening it.
5 He had his hands up in front of him and touched my vest, but I felt that was just incidental
6 contact as he was just trying to block my access to the SUV. I backed up a little, so we could
7 talk, but Mr. Boule just kept shouting that I was harassing his customers. I calmly explained
8 that I wanted to speak to Mr. Kaya to confirm his immigration status, and [REDACTED]
9 [REDACTED] I asked him to step aside so I could
10 do my job, but he refused.

11 35. I was puzzled by Mr. Boule's behavior. [REDACTED]
12 [REDACTED].
13 In hindsight, he was probably worried I was going to arrest Mr. Kaya before he had paid for
14 his transportation and lodging. That's the only explanation that makes sense to me. At the time,
15 however, Mr. Boule's attempts to impede my investigation made me even more suspicious that
16 Mr. Kaya was unlawfully in the country or engaged in illegal activity.

17 36. Based on my training from CBP, I knew I was authorized to be on Mr. Boule's
18 property to conduct an immigration check. I was taught that, near the international border,
19 federal law empowers Border Patrol Agents to search without a warrant for aliens in cars and
20 on private land, and to ask a person about his or her right to be in the United States.

21 37. Eventually, Mr. Boule gave me enough room to open one of the vehicle doors.
22 I vaguely recall that it was the front door on the passenger side, but I'm not sure about that. It
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1 could have been the rear door on the passenger side. Either way, Mr. Boule was still very close
2 to me, and it's possible that my arm brushed against him as I reached for the handle. It's also
3 possible that the door touched him as it swung open, but that wasn't my intention.

4 38. I understand Mr. Boule contends in this litigation that I picked him up off the
5 ground, threw him into the car door, and then threw him to the ground. That is utterly false. I
6 did not use any force against him whatsoever, even though I believe I lawfully could have done
7 so, since he was physically obstructing my investigation. Mr. Boule weighs approximately 80
8 pounds more than I do, and I doubt I could pick him up if I tried. There's no way I could throw
9 him through the air as he alleges. His claim that he was knocked to the ground is also false. He
10 remained standing on his feet throughout this encounter.

11 39. Mr. Kaya handed me his passport and visa, and then I contacted Dispatch over
12 the radio to check his status. As I was running these immigration checks, Mr. Boule was on
13 his cell phone calling CBP to request a supervisor. Once I provided Dispatch with Mr. Kaya's
14 identifying information, I called Agent Andersen over the radio and told him that Mr. Boule
15 was requesting a supervisor.

16 40. Within a few minutes, Supervisory Agent Andersen and Border Patrol Agent
17 Phillip Olson arrived at Smuggler's Inn. Mr. Boule walked over and talked to Agent Andersen
18 for about five minutes. During that time, I finished Mr. Kaya's immigration checks. Mr. Kaya's
19 visa was valid, so no further action was taken.

20 41. Afterward, Mr. Boule walked back to the SUV, picked up Mr. Kaya's luggage,
21 and carried it into Smuggler's Inn with Mr. Kaya. I observed Mr. Boule walk normally while
22 carrying the luggage, without any sign of injury or distress.
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1 42. I then got in my patrol vehicle and left Smuggler's Inn. Agents Andersen and
2 Olson left, too. I went back to the station and wrote a memorandum about what happened. My
3 investigation of Mr. Kaya at Smuggler's Inn lasted about twenty minutes.

4 43. That night, Mr. Kaya illegally crossed the border into Canada from Mr. Boule's
5 property.

6 44. Enclosed with my declaration as **Exhibit B** is video taken [REDACTED] at
7 the time of the incident. Based on my own recollection of that day, the video fairly and
8 accurately depicts the events it captured. Unfortunately, the carriage house blocked the
9 camera's view of my interaction with Mr. Boule. Beginning at 14 minutes, 5 seconds into the
10 video (time-stamp 13:11:29), however, you see Mr. Boule walk over to talk with Agent
11 Andersen when he arrives. Mr. Boule is clearly uninjured. His hat and sunglasses are still in
12 place, and his clothing is neither scuffed nor dirty like it would be if he had been thrown down
13 onto the concrete driveway as he alleges. He says I lifted him off the ground by grabbing his
14 sweatshirt in the chest area, but the video shows the fabric isn't stretched or torn.

15 45. Beginning at 21 minutes, 18 seconds into the video (time-stamp 13:18:42), you
16 see Mr. Boule carry Mr. Kaya's luggage into the main house. Again, this shows that he was
17 not injured.

18 **New instruction to Border Patrol Agents**

19 46. A week or so after my encounter with Mr. Boule, CBP management issued new
20 guidelines regarding Border Patrol activity on Mr. Boule's property. [REDACTED]

21 [REDACTED]
22 [REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

47. When these new guidelines were issued, CBP managers told us that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

My good-faith reporting to government agencies

48. A couple months after the incident, I read a news article online in which Mr. Boule openly discussed illegal border crossings on his property. I believe the article also referenced his “SMUGLER” license plate. The article frustrated me, because it appeared Mr. Boule was flaunting his involvement in criminal activity. The fact Mr. Boule was defrauding vulnerable individuals [REDACTED] also didn’t sit well with me or my fellow Border Patrol Agents. I also questioned whether Mr. Boule was reporting this income.

1 And I didn't see how he could have a license plate so blatantly referencing the criminal activity
2 that constantly occurred at his property.

3 49. On June 5, 2014, I called some government agencies to alert them to this news
4 article. I don't specifically recall which agencies I called other than the Washington State
5 Department of Licensing, but I believe one of the others was the Internal Revenue Service. My
6 purpose was to alert the agencies of possible criminal conduct that I thought would be of
7 concern to them. For example, I understood that the Department of Licensing could revoke
8 personalized plates referencing illegal activities. I did not convey any information other than
9 telling the agencies they might be interested in this news article.

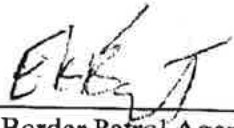
10 50. I made these calls in the good-faith belief that Mr. Boule was probably breaking
11 the law. I did not make the calls in retaliation for the incident or any of Mr. Boule's behavior
12 afterward, including his decision to submit a tort-claim form. In fact, Mr. Boule hadn't
13 submitted a claim when I made these calls, and I didn't know he was going to a week later on
14 June 11, 2014. And I don't think this was even the first time I reported Mr. Boule's
15 "SMUGLER" plate to the Department of Licensing. A couple years earlier, when I first learned
16 license plates referencing criminal activity weren't allowed, I believe I reported the plate. It
17 wasn't revoked at that time, but I thought the result might be different this time, because the
18 news article clarified how the plate was associated with illegal smuggling across the border.

19 51. I understand Mr. Boule contends that I am responsible for other retaliation
20 against him, including intimidating potential guests, slandering Mr. Boule's name, parking
21 patrol vehicles near his property to discourage business, and detaining his employees without
22 legal justification. None of this is true. I didn't do any of these things or engage in any
23

1 retaliation against Mr. Boule. I'm also not aware of any Border Patrol Agent doing these things,
2 and I certainly didn't ask any agents to engage in such behavior.

3
4 Signed this 2nd day of July 2018 at Blaine, Washington.

5
6 By:


U.S. Border Patrol Agent Erik Egbert

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Breean Lawrence Beggs: bbeggs@pt-law.com, hhoffman@pt-law.com, lswift@pt-law.com

Gregory Donald Boos: gdboos@cascadia.com, gdboos@gmail.com

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Kristin Berger Johnson: kristin.b.johnson@usdoj.gov, amy.hanson@usdoj.gov, CaseView.ECF@usdoj.gov, ECF-Civ.USAWAW@usdoj.gov, hana.yiu@usdoj.gov

I further certify that I mailed a true and correct copy of the foregoing to the following non-CM/ECF participants by U.S. Mail:

N/A

DATED: July 5, 2018

s/Karrie Fielder

Karrie Fielder



Exhibit A

Video filed in physical form with
the Clerk's Office for the
Western District of Washington

Exhibit B